



STATE OF NEW YORK  
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August 3, 2007 JUNE DUFFY  
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BY FACSIMILE  
Honorable Barbara S. Jones  
United States District Judge  
Southern District of New York  
500 Pearl Street, Rm. 620  
New York, New York 10007

Re: Laurie Kellogg v. NYS Dept. of Correctional Services, et al. /07 Cv. 2804 (BSJ)(GWG)

Dear Judge Jones:

I represent defendants Armstrong, Ball, Barclay, Duncan, Goldstein, Fisher (substituted for defendant Goord), Nuttal (substituted for defendant Headley), LeClaire, Lord, Raymond (substituted for defendant Masterson), McElroy, Notaro, Perez, Roger, Schneider, Smith and Wright. I write to respectfully request a two day extension by which defendants must file their motion to dismiss the complaint as well as an extension of the page limit for defendants' memorandum of law in support of their motion.

Defendants respectfully request a two day extension, from August 8, 2007 to August 10, 2007, by which defendants must file their motion to dismiss the complaint, pursuant to 12(b)(1) and (6) of the Federal Rules of Civil Procedure. On June 6, 2007, when I submitted my initial request for an extension of time by which to answer or move with respect to the complaint, I was not aware that I would be involved in a hearing before the Honorable Lisa M. Smith on August 8, 2007 in the matter of Warmus v. DOCS, 04 Civ. 8269 (SCR) (LMS) which would require me to be out of the office on August 6<sup>th</sup> and 7<sup>th</sup> preparing witnesses for the hearing.

In addition, due to the number of defendants and claims raised in the complaint, defendants respectfully request permission to submit a motion to dismiss limited to 40 pages. Plaintiff's counsel has been contacted and has consented to the request for an extension of the page limit. At the time I spoke to plaintiff, I was not aware that my hearing would require me to be out of the office on August 6<sup>th</sup> and 7<sup>th</sup> and therefore, I did not seek his consent for the two day extension of time to file defendants' motion. I attempted to contact counsel today but was only able to leave a message. In order not to delay the submission of this request, I am submitting it without the consent of counsel.

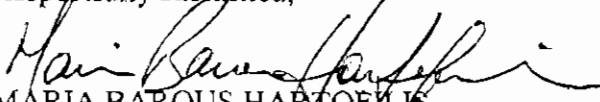
Honorable Barbara S. Jones

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Wherefore, it is respectfully requested that defendants be granted an extension of time, until August 10, 2007, to file their motion to dismiss the complaint as well as permission to file a memorandum of law in support of their motion to dismiss, not to exceed 40 pages.

Respectfully submitted,

  
MARIA BAROUS HARTOFILIS  
Assistant Attorney General

cc: Anthony M. Giordano, P.C.  
Plaintiff's counsel  
*By facsimile*

SO ORDERED  
Dated:

*Application GRANTED*

  
BARBARA S. JONES  
U.S.D.J.

*8/6/07*